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## SEMINOLE COUNTY GOVERNMENT AGENDA MEMORANDUM

**SUBJECT:** Release of the original Water and Sewer Maintenance Agreement with Letter of Credit for the project known as Hanover Pointe.

**DEPARTMENT:** Environmental Services

**DIVISION:** Business Office

**AUTHORIZED BY:** Joe Forte, Andrew Neff

**CONTACT:** Becky Noggle

**EXT:** 2143

**MOTION/RECOMMENDATION:**

Approve the Release of the original Water and Sewer Maintenance Agreement with Letter of Credit in the amount of \$64,900.72 for the project known as Hanover Pointe.

District 5 Brenda Carey

Bob Briggs

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**BACKGROUND:**

The following project has satisfactorily completed the two (2) year maintenance inspection by the Water and Sewer Division. Release Water and Sewer Maintenance Agreement with Letter of Credit # 9660929352-00003 dated 08/03/2007 in the amount of \$64,900.72 which was accepted by Submission Memorandum into County Records for the project known as Hanover Pointe.

**STAFF RECOMMENDATION:**

Staff recommends that the Board to approve the release of the original Water and Sewer Maintenance Agreement with Letter of Credit in the amount of \$64,900.72 for the project known as Hanover Pointe.

**ATTACHMENTS:**

1. Original Request for Release and Copy LOC

<b>Additionally Reviewed By:</b> No additional reviews
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## **Longwood Lake Mary, LLC**

6355 MetroWest Blvd Suite 330  
Orlando, FL 32835  
Phone: (407) 523-2323

August 3, 2009

Becky Noggle  
500 West Lake Mary Blvd  
Sanford, FL 32773

Dear Ms. Noggle,

According to your letter sent July 2, 2009, Longwood Lake Mary, LLC has completed all of the requirements associated with the water and sewer maintenance bond for the subdivision Hanover Pointe. As such, please release the original maintenance bond and corresponding letter of credit #9660929352-00003 for the amount of \$64,900.72 to the above address.

Thank you and if you have any questions please let me know. I can be reached at (407) 629-4168.

Sincerely,



Michelle Kahan

ENVIRONMENTAL SERVICES DEPARTMENT



July 2, 2009

Longwood Lake Mary LLC  
111 S Maitland Ave. Ste 101  
Maitland, FL 32751

Re: Maintenance Agreement w/ LOC

**Project Name: Hanover Pointe**  
**LOC# 9660929352-00003**  
**Amount: \$64,900.72**  
**District #5**

To Whom It May Concern:

Pursuant to Seminole County's Land Development Code (LDC) requirements, Chapter 35, Part 8, Sec. 35.902 (H) (1,2) the County conducted an inspection of the referenced project on **7/01/2009** to insure that any maintenance problems or design deficiencies which manifested themselves during the maintenance period were addressed prior to expiration of the Bond.

As of **7/01/2009**, the Seminole County Water and Sewer Inspector found no deficiencies. Therefore, the above mentioned Maintenance Agreement may be released as required by the Land Development Code.

Please send request for release of the original Maintenance Bond on your letterhead to Becky Noggle, 500 W Lake Mary Blvd., Sanford, FL 32773. LOC/Bonds are to be released by the Board of County Commissioners through a Regular Board Session.

If you have any questions, please contact Becky Noggle @ 407-665-2143.

Sincerely,

Brent Keith  
Sr. Utilities Inspector

c: Project File

# MAINTENANCE AGREEMENT

(Water and Sewer Improvements)

THIS AGREEMENT is made and entered into this 17<sup>th</sup> day of July, 2007, between Longwood/Lake Mary, LLC, hereinafter referred to as "PRINCIPAL" and SEMINOLE COUNTY, a political subdivision of the State of Florida, hereinafter referred to as "COUNTY".

## WITNESSETH:

WHEREAS, PRINCIPAL has constructed certain water and sewer improvements, including water lines, sewer lines, lift station and other appurtenances in that certain subdivision described as Hanover Pointe as recorded in Plat Book \_\_\_\_ Pages \_\_\_\_, Public Records of Seminole County, Florida, hereinafter referred to as the "plat", and

WHEREAS, the aforesaid water and sewer improvements were made pursuant to certain plans and specifications dated June 16, 2006 (as subsequently revised or amended on February 14, 2007) and filed with the COUNTY Department of Environmental Services; and

WHEREAS, PRINCIPAL is obligated to protect the COUNTY against any defects resulting from faulty materials or workmanship of said water and sewer improvements and to maintain said water and sewer improvements for a period of two (2) years from July 30, 2007; and

WHEREAS, to guarantee performance of said obligations by PRINCIPAL, PRINCIPAL has obtained and furnished to the COUNTY, a certain Irrevocable Letter of Credit No. 9660929352-00003 issued by BB&T, in the sum of sixty-four thousand nine hundred dollars and seventy-two cents (\$64,900.72).

NOW THEREFORE, the COUNTY agrees to accept the water and sewer improvements into the COUNTY Utility System upon execution of this Agreement and to accept an Irrevocable Letter of Credit as security for the maintenance obligation of the PRINCIPAL.

PRINCIPAL, its heirs, executors, successors, and assigns, jointly and severally agrees to be held and firmly bound to the COUNTY in the sum of sixty-four thousand nine hundred dollars and seventy-two cents (\$64,900.72) on the condition that, if PRINCIPAL shall promptly and faithfully protect the COUNTY against any defects resulting from faulty materials or workmanship of the aforesaid water and sewer improvements and maintain said water and sewer improvements for a period of two (2) years from July 30, 2007, then this obligation shall be null and void, otherwise it shall remain in full force and effect.

The COUNTY Department of Environmental Services shall notify the PRINCIPAL in writing of any defect for which the PRINCIPAL is responsible and shall specify in said notice a reasonable period of time within which PRINCIPAL shall correct the defect.

Should the PRINCIPAL fail or refuse to perform or correct said defects within the time specified, the COUNTY shall be authorized, but shall not be obligated, to take over and perform, or cause to be performed, such work as shall be necessary to correct such defects, and shall be authorized to draw upon the Letter of Credit to pay the cost thereof, including, but not limited to, engineering, legal and contingent costs. Further, the COUNTY, in view of the public interest, health, safety, welfare and other factors involved, and the consideration in approving and filing the said Plat shall have the right to resort to any and all legal remedies against the PRINCIPAL, both at law and in equity, including, specifically, specific performance, to which the PRINCIPAL unconditionally agrees.

The PRINCIPAL further agrees that the COUNTY, at its option, shall have the right to correct said defects resulting from faulty materials or workmanship, or pursuant to public advertisement and receipt of bids, cause to be corrected any defects or said defects in case the PRINCIPAL shall fail or refuse to do so, and, in the event the COUNTY should exercise and give effect to such right, the PRINCIPAL shall be obligated hereunder to reimburse the COUNTY the total cost thereof, including, but not limited to, engineering, legal and contingent costs, together with any damages, either direct or consequent, which may be sustained on account of the failure to the PRINCIPAL to correct said defects.

IN WITNESS WHEREOF, the parties to this Agreement have caused their names to be affixed hereto by the proper officers thereof.

ATTEST:

(CORPORATE SEAL)

By: [Signature]

Date: 7/30/07

I HEREBY CERTIFY that, on this 30 day of July, 20 07, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Allan Goldberg and Allan Goldberg, as President and Secretary, respectively, of Longwood Lake Mary, LLC a corporation, organized under the laws of the State of Florida, who are personally known to me or who have produced as identification and that they did take an oath. They acknowledged before me that they executed the foregoing instrument as such officers in the name and on behalf of the corporation, and that they also affixed thereto the official seal of the corporation.

NOTARY SEAL

[Signature]  
Notary Public Signature

WITNESSES:

[Signature]  
Debra K. Menest

DEPARTMENT OF PUBLIC WORKS  
UTILITIES DIVISION  
SEMINOLE COUNTY, FLORIDA

8-1-07

Utilities Manager

Date: [Signature]



Within authority delegated by the County Manager pursuant to Resolution No. 97-R-66 adopted March 11, 1997 and further delegated by Memorandum dated March 27, 1997, Re: Streamlining of Development-Related Agenda items and approved on April 2, 1997.



Branch Banking & Trust Co.

255 South Orange Avenue, Suite 112  
Orlando, Florida 32801

IRREVOCABLE LETTER OF CREDIT  
(For Maintenance Agreement – Water and Sewer Improvements)

July 17, 2007

Seminole County Board of County Commissioners  
Seminole County Services Building  
1101 East First Street  
Sanford, Florida 32771

Re: Irrevocable Letter of Credit No. 9660929352-00003

Dear Commissioners:

By order of Longwood Lake Mary, LLC, we hereby establish an Irrevocable Letter of Credit in your favor. We hereby authorize you to draw on Branch Banking & Trust Company up to an aggregate amount of \$64,900.72 available by your drafts at sight accompanied by a signed statement of the Board of County Commissioners that the Maintenance Agreement dated July 17, 2007, between Longwood Lake Mary, LLC and Seminole County is in default.

Drafts must be drawn and negotiated on or before 9/17/09, and each draft must state that it is drawn under Irrevocable Letter of Credit No. 9660929352-00003 of Branch Banking & Trust Company dated 7/16/07, and the amount thereof endorsed on this Letter of Credit. The Bank agrees that this Letter of Credit shall automatically renew itself for successive one year periods unless the Bank shall give notice to you no later than forty-five (45) days preceding an expiration date that it chooses not to renew the Letter of Credit, in which case, the County shall be entitled to demand and receive the outstanding amount of money represented by this Letter of Credit. In the event of a draw based on expiration of this Letter of Credit, the proceeds shall be held by Seminole County as a Cash Bond to secure continued adherence to the terms of the Maintenance Agreement with Longwood Lake Mary, LLC.

Upon tender of payment, you will release to the Bank the original irrevocable Letter of Credit marked "Cancelled". In any event, upon expiration or at any time after the completion of the Maintenance Agreement dated July 17, 2007, and the completion of Longwood Lake Mary, LLC obligations thereunder, you will return the original Irrevocable Letter of Credit to this Bank marked "Cancelled".

We hereby engage with drawers, endorsers, and bona fide holders of all drafts drawn under and in compliance with the terms of this credit, that such drafts will be duly honored upon presentation to the drawee.

If the Board of County Commissioners initiates suit under this Letter of Credit, the Bank hereby agrees to be responsible for Seminole County's court costs and reasonable attorney's fees, but Branch Banking and Trust Company shall not be responsible for any attorney's fees in excess of fifteen (15%) of the aggregate amount of this Letter of Credit.

This Letter of Credit sets forth in full the terms of our undertaking and such undertaking shall not, in any way, be amended by reference herein to any agreement, and any such reference shall not be deemed to incorporate herein by reference any document or agreement other than the Maintenance Agreement dated July 17, 2007, 2007, and referenced herein.

Very truly yours,

By Anne C. Grady  
Anne C. Grady  
Vice President

Corporate Seal